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EXTRAORDINARY

PART II—Section 2

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 25th November, 1957:—

Bill No. X of 1957

A Bill further to amend the Indian Reserve Forces Act, 1888.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Indian Reserve Forces (Amendment) Act, 1957. Short title.

4 of 1888.

2. After section 6 of the Indian Reserve Forces Act, 1888, the following sections shall be inserted, namely:—

Insertion of new sections 7 and 8 in Act 4 of 1888.

“7. (1) If a person belonging to the Indian Reserve Forces is, during the period of his employment under an employer, called up for training, muster or army service in pursuance of his liability under any rule or order under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training, muster or army service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted: Reinstatement in civil employ of persons belonging to Reserve Forces on termination of period of training, muster or army service.

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter

to the authority prescribed in this behalf by rules made under this Act, and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed in the said rules, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring the employer to re-employ such person on such terms as the authority thinks suitable, or

(c) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training, muster or army service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, muster or army service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training, muster or army service under this Act.

8. When any person belonging to the Indian Reserve Forces and called up for training, muster or army service in pursuance of his liability under any rule or order under this Act has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, muster or army service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed by rules made under this Act."

Preservation
of certain
rights of
persons be-
longing to
Reserve For-
ces when
called up for
training,
muster or
army service.

STATEMENT OF OBJECTS AND REASONS

Reservists of the Indian Army are liable to undergo periodical military training and also to be called up for service in the event of an emergency. During the period of their reserve service, they get only a nominal retaining fee of Rs. 10/- per month, except when called up for training or active service. This small retaining fee is hardly sufficient for the reservist to maintain himself or his family, and it becomes essential for him to take up some civil employment. Although many employers have treated their reservist-employees fairly, experience has shown that there are some who are not always prepared to reinstate the reservists in their employment after the termination of the periodical military training or active service for which the reservists have a liability under the Act. Soldiers are, therefore, reluctant to be transferred to the Reserve; and when actually so transferred, they find it a great hardship to discharge their obligations under the Indian Reserve Forces Act. There is no provision in that Act to afford the necessary protection to the reservists in civil employment. It is, therefore, proposed to amend the Act so as to impose a statutory liability on the employers to afford necessary protection to members of the Reserve Forces in civil employment. This Bill seeks to achieve this purpose.

SURJIT SINGH MAJITHIA.

NEW DELHI;

The 25th October, 1957.

S. N. MUKERJEE,

Secretary.